

MINUTES

INDIANA RESPIRATORY CARE COMMITTEE

APRIL 18, 2008

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Mr. Konkle called the meeting to order at 10:00 a.m. in Conference Center Room 5, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana.

Committee Members Present:

Thomas Konkle, R.C.P., Chairman
Sally Park-Teelon, R.C.P., Member
Gary L. Smith, R.C.P., Member

Committee Members Absent:

Margaret Sullivan, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Board Director, Professional Licensing Agency
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda.

KONKLE/PARK-TEELON
Motion carried 3-0-0

III. ADOPTION OF THE MINUTES

A motion was made and seconded to adopt the minutes from the January 25, 2008 meeting of the Committee.

PARK-TEELON/SMITH
Motion carried 3-0-0

IV. APPEARANCES

A. APPLICATION

1. Jacqueline M. Brice

Ms. Brice failed to appear before the Committee, as requested, regarding her application for licensure by examination. She will be sent a letter advising that she has been rescheduled to appear at the July meeting.

2. Terry Reed Cunningham

Mr. Cunningham appeared before the Committee, as requested, regarding his application for licensure by endorsement. On his application he answered "yes" to question #5b asking, "Have you ever been convicted of, pled guilty, or nolo contendere to any offense, misdemeanor or felony, in any state?" He stated that in 2003 he went through a hostile divorce and took things that were not his and sold them. He was pled guilty to the felony theft charge. The Committee asked him why he voluntarily surrendered his North Carolina license. He stated he answered "no" to all the questions on the North Carolina application because he thought the felony charge had been expunged. He later learned that only his right to vote and right to own a firearm had been restored but the conviction will remain on his record. He voluntarily surrendered his North Carolina license in lieu of disciplinary actions being taken for the omission on his application. He stated he had never actually worked in North Carolina and has had no trouble with the law since his conviction. Mr. Cunningham is a 2003 graduate of Volunteer State Community College and has taken and passed the NBRC examination. He has held licenses in Tennessee and North Carolina.

Committee Action: A motion was made and seconded to grant Mr. Cunningham a respiratory care license.

PARK-TEELON/SMITH
Motion carried 3-0-0

3. Sara Rose Hoffman

Ms. Hoffman appeared before the Board, as requested, regarding her application for licensure by examination. On her application she answered "yes" to question #5b asking, "Have you ever been convicted of, pled guilty, or nolo contendere to any offense, misdemeanor or felony, in any state?" She explained that she has one prior conviction for minor consumption and one prior conviction for possession of marijuana. The Committee asked her about the marijuana charge and she stated in July 2007 she was in a car with her boyfriend and they were pulled over for speeding. The vehicle was searched and marijuana was found. The police charged everyone in the vehicle with possession. Ms. Hoffman claimed she had not been smoking marijuana that day and is no longer with that boyfriend. The Committee asked her when the last time was she smoked marijuana and she guessed it had been about two years ago. Ms. Hoffman presented the Committee with paperwork showing she had completed six months of probation and random urine drug testing. The Committee took note that the date on the paperwork indicated these events took place in 2006 and not 2007. Ms. Hoffman indicated that apparently she did not remember the correct year that all of this took place. She stated she was 18 or 19 years old when it happened. Ms. Hoffman is currently working on a temporary permit at St. Margaret Mercy in Hammond and Dyer and told the Committee she just learned she will be moving to California in July. She stated that she did not tell her employer about her past conviction before they learned she was making a personal appearance at this meeting. Ms. Hoffman is a 2007 graduate of Indiana University Northwest and has taken and passed the NBRC examination. She does not hold a license at this time.

Committee Action: A motion was made and seconded to grant Ms. Hoffman a respiratory care license on Indefinite Probation with the following terms and conditions:

1. The Applicant's license as a respiratory care practitioner is placed on INDEFINITE PROBATION. She may request a hearing to modify or withdraw the

terms of her probation after two (2) years from the date of this decision and shall remain on probation until such time as the Committee withdraws the probation.

2. The Applicant's license to practice respiratory care is subject to the following terms of probation:

- a. Applicant shall keep the Committee apprised of her home address, mailing address and telephone number.
- b. Applicant shall keep the Committee apprised of her place of employment, employment telephone number and name of supervisor.
- c. Applicant shall keep the Committee apprised of her occupation title and work schedule, including the number of hours worked per week.
- d. Applicant shall provide the Committee with a standing order from a physician for random urine tests for drug and alcohol use within 30 days from the date of this order.
- e. Applicant shall cause her employer to submit quarterly reports to the Committee advising the Committee of her professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others.
- f. Applicant shall immediately notify the Committee in writing of any relapse.
- g. Applicant shall appear before the Committee when requested.
- h. Applicant shall comply with all laws and rules regulating the practice of respiratory care as well as the general statutory provisions that apply to all the health professions.

3. The failure of the Applicant to comply with the requirements of probation may subject her to a show cause hearing before the Committee and the imposition of further sanctions.

KONKLE/PARK-TEELON
Motion carried 3-0-0

4. Wendy K. Packard

Ms. Packard appeared before the Committee, as requested, regarding her application for licensure by endorsement. On her application she answered "yes" to question #7 asking, "Have you ever been admonished, censured, reprimanded or requested to withdraw, resign, or retire from any hospital or health care facility in which you have trained, held staff membership or privileges or acted as a consultant?" She explained thirteen years ago she worked at Akron City Hospital in Akron, Ohio. She became upset at the start of a shift upon learning they would be short two therapists for a heavy load. She angrily voiced her complaint to the supervisor and went to the break room. There was mistletoe hanging from the door frame and she reached up to swat it. When she did it came off the tack and hit another employee. She stated she was young and apologized to her supervisor but was terminated a week later. Ms. Packard said this is the only incident that has ever happened and her work record is good. She informed the Committee she has worked as a traveler for many years on three month contracts and that is why her employment history is so lengthy. Ms. Packard is a 1991 graduate of Edison Community College and has taken and passed the NBRC examination. She holds a license in Texas, Ohio, Arizona, Florida, Massachusetts, Washington, New York, Nevada, and Hawaii.

Committee Action: A motion was made and seconded to grant Ms. Packard respiratory care license.

PARK-TEELON/KONKLE
Motion carried 3-0-0

B. PROBATION

1. Charles Anthony Hodges, R.C.P., License No. 30005450A

Mr. Hodges appeared before the Committee, as requested, regarding his ongoing probationary status. Ms. Vaught informed the Committee that Mr. Hodges has not submitted his quarterly report of NA meetings that was due February 2008, that he has not submitted proof of completion of continuing education from when he was not in compliance with the '05-'06 audit, and he is supposed to demonstrate to the Committee that he understands the principles of the 12 step AA/NA program. Mr. Hodges passed out copies of the continuing education and his attendance records for the AA/NA meetings. The Committee asked him why he did not get these documents submitted on time to be compliant with his order. He explained he is not a disorganized person and he is not sure why he has not well with getting things submitted on time. He explained he has a busy life and works to support his family and it is not intentional to disregard the probation order. The Committee asked him to explain the 12 step program. He told them it is religious based therapy done in an anonymous group setting where the steps are discussed. He said often you will work with a sponsor and he has been clean four years and 123 days. He stated he credits he sobriety not to the step program but to the counseling he received from a therapist prior to the Committee requiring him to attend AA/NA. The Committee expressed dismay that Mr. Hodges is continually late satisfying the requirements of his probation order and expressed a desire to take further action if he is late again on any term or condition of his probation.

Committee Action: Chairman Konkle made a motion to issue an Order to Show Cause but the motion died when there was no second.

The Committee instructed Ms. Vaught to file an Order to Show Cause if he is late on any of the May and August reports so that a hearing can be set for the October meeting.

C. RENEWAL

V. ADMINISTRATIVE HEARINGS

A. State of Indiana v. William P. Vaughan R.C.P., License No. 99026963A

Administrative Cause No. 2008 RCC 0001

Re: Complaint

Parties and Counsel Present:

Respondent was not present and was not represented by counsel
Heather Kennedy, Deputy Attorney General for the State of Indiana
Sherri Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: Mr. Vaughan was called in and about the premises but failed to appear. At this time the State asked the Committee to issue a Notice of Proposed Default since the Respondent failed to appear.

Committee Action: A motion was made and seconded to issue a Notice of Proposed Default.

KONKLE/PARK-TEELON
Motion carried 3-0-0

At this time the State requested to present there witnesses that had come to testify in this matter. The State presented to the Committee that in May 2007 the Respondent began employment at Marion General Hospital. By mid-May complaints were being made regarding his lewd behavior. The State called their first witness, Sherry Howell. Ms. Howell is the Nursing Administrative Director and has worked at Marion General for over thirty-six (36) years. She testified that she hired the Respondent but she did not witness him when he worked there because she was on surgical leave. She testified as soon as she returned to work he was the first issue the unit manager wanted to discuss. She conducted an investigation into the night shifts complaints about inappropriate comments he made about women and how he liked them and stating that room 369 was a good number. Ms. Howell stated he chose to resign in June 2007 in lieu of termination and she has not heard from him since. The State called their second witness, Brenda Nelson. Ms. Nelson was a patient in the hospital and upon her release complained that the Respondent inappropriately touched her breast and made comments when he was listening to her breath sounds. She stated she did not report the incident to the police. The State advised that the Respondent does not have a permit or license to practice in Indiana and asked the Committee to bear in mind the testimony of the witnesses. The State noted if the Respondent does not respond in a timely manner to the Notice of Proposed Default then a hearing will be held at the next meeting at which time the State will present its full case and seek the Committee's ruling.

- B. State of Indiana v. Joe B. Wolfe, R.C.P., License No. 30003194A**
Administrative Cause No. 2008 RCC 0002
Re: Complaint

Parties and Counsel Present:

Respondent was present and was not represented by counsel
Heather Kennedy, Deputy Attorney General for the State of Indiana
Sheri Rutledge, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: The Attorney General's Office filed a complaint against the Respondent on April 1, 2008. The complaint alleged that on January 26th and 27th, 2008 100 tablets of 40mg Opana went missing from a locked medication cabinet in a room on the Fourth floor of the hospital where the Respondent worked. All staff on duty from all departments with access to the medication room was drug tested immediately. On February 2, 2008, the drug results confirmed that the Respondent had tested positive for Oxycodone and Oxymorphone. While under police questioning, Respondent admitted to the theft and ingestion of the Opana medication. Respondent subsequently wrote a letter to his supervisor at the hospital Julie Bowers, admitting he took the patient's medications due to his "more than normal back pain." The State called witness Julie Bowers, Division Director of Inpatient Services at Kosciusko Community Hospital. Ms. Bowers testified she has been employed at the hospital since 2000 and the Respondent's unit manager

reports to her. Ms. Bowers testified the medication is stored in a locked cabinet. The lock is a combination lock and the numbers are changed every month. She stated the complaint alleged 100 tablets of 40mg were taken but it was really 50 tablets of 40mg and when the pills were replaced by the pharmacy they were given 100 tablets of 20mg so the Respondent took 50 pills from the locked cabinet. The medications belonged to a patient. Ms. Bowers explained the staff was held over and ordered to immediately submit to a urine drug screen. Per hospital policy the staff is given the opportunity to admit they have a "drug on board" and if they self-report they can remain employed and enter a treatment program. She stated none of the staff identified themselves as having a "drug on board". The State entered into evidence exhibit #2 which is a copy of the Respondent's drug screen showing a positive test result for Oxycodone and Oxymorphone. Ms. Bowers testified that no other staff tested positive and that the Respondent was terminated on February 7, 2008. Ms. Bowers stated she filed a police report and a week later she received a letter from the Respondent admitting that he stole the medications. The State called the Respondent as a witness. The Respondent testified that what Ms. Bowers said was accurate. He claimed he took the medication because he has had back problems for the last nine (9) years and it had worsened in the last year. He told the Committee he made a bad decision and regrets taking the medication. He stated he knows it was wrong and only did it the one time. Respondent stated he did not self-report initially but did admit to the police he had stolen the medication and then wrote a letter to his supervisor admitting the theft a week after he had been terminated. The Respondent noted his hearing for the criminal charge is scheduled next month and his attorney has entered a not guilty plea. The State entered into evidence exhibit #3 which was the charge sheet showing one (1) Count Theft, Class B misdemeanor. The Respondent admitted to the Committee that he has been working at Woodlawn Hospital in Rochester, Indiana and his employers are not aware of his past termination and pending criminal charge. The Committee asked him what he put on his application and he stated for his reason for leaving from his last position was administrative differences. The Respondent stated he worried if he told the truth they would not have hired him. Respondent stated he has been doing outpatient therapy at the Bowman Center.

Committee Action: A motion was made and seconded to Indefinitely Suspend Respondent's license for six (6) months and to require conditions precedent to reinstatement that the Respondent must obtain an addictionology evaluation and present proof that he is current on continuing education.

KONKLE/PARK-TEELON
Motion carried 3-0-0

Committee Action: A motion was made and seconded to order the Respondent to pay the costs of the proceedings.

KONKLE/SMITH
Motion carried 3-0-0

VI. NOTICE OF PROPOSED DEFAULT/DISMISSAL

There were no notices of proposed defaults or dismissals.

VII. REQUEST FOR VOLUNTARY SURRENDER OF LICENSE

A. State of Indiana v. Christopher Bible, R.C.P., License No. 30002892A

Parties and Counsel Present:

The Respondent was not present and was not represented by Counsel Heather Kennedy, Deputy Attorney General for the State of Indiana Sherri Rutledge, Court Reporter

Participating Board Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teeion
Mr. Smith

Case Summary: The State told the Committee a complaint was filed against the Respondent in 2005 for not having enough continuing education hours when he was chosen in a random audit. The Respondent has petitioned the Committee to accept the surrender of his Indiana respiratory care license in lieu of further disciplinary proceedings. The State advised the Respondent is aware of and understands that should the Committee accept the surrender it will be permanent and all privileges of licensure will cease. The State asked that the case be dismissed.

Committee Action: A motion was made and seconded to accept the voluntary and permanent surrender of the Respondent's license.

KONKLE/SMITH
Motion carried 3-0-0

VIII. SETTLEMENT AGREEMENTS

There were no settlement agreements.

IX. OLD/NEW BUSINESS

There was no Old/New business discussed.

X. DISCUSSION

There were no items for discussion.

XI. APPLICATION REVIEW

A. Endorsement

There were no endorsement applications to review.

B. Examination

There were no examination applications to review.

C. Credentials

There were no credential applications to review.

D. Temporary Permits

There were no temporary permits to review.

- E. Student Permits**
There were no student permits to review.

XII. PROBATIONARY REPORT

- A. Richard Schlomer-**
Mr. Schlomer has not submitted any NA/AA reports to the Committee as required per his probationary order. Correspondence has been sent but he has failed to respond.

Committee Action: After discussion, a motion was made and seconded to issue an Order to Show Cause for the July 18, 2008 meeting.

SMITH/PARK-TEELON
Motion carried 3-0-0

B. Rachel Smith

Ms. Smith has not submitted her AA reports for 2007. Correspondence has been sent but she has not responded.

Committee Action: After discussion, a motion was made and seconded to issue an Order to Show Cause for the July 18, 2008 meeting.

SMITH/PARK-TEELON
Motion carried 3-0-0

C. Mary Smith

Ms. Smith requested a hearing to withdraw her probation. But based upon her order she is not allowed to request such until after February 23, 2009. Ms. Vaught will write her a letter explaining that her request cannot be considered until after that date.

XIII. CONTINUING EDUCATION

There was no continuing education for review.

XIV. OTHER ITEMS FOR CONSIDERATION

Ms. Vaught asked the Committee if CPAP/BIPAP set-up, administration, and titration are considered the practice of respiratory care. The Committee's response was "yes".

XV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Respiratory Care Committee adjourned at 1:00 p.m.


Thomas Konkle, Chairman

7/18/08
Date